

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL CASE NO. 5:23-cv-00159-MR-DCK**

ERIC RAMOND CHAMBERS,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
WARDEN OF ALEXANDER)	
CORRECTIONAL, et al.,)	
)	
Defendants.)	
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THIS MATTER is before the Court on the Motion to Dismiss filed by Defendants Jeremy Gilliland, Robert Kalinowski, Michael Moody, and Dwight Morgan [Doc. 52]; the Magistrate Judge’s Memorandum and Recommendation regarding the disposition of that Motion [Doc. 62]; the Plaintiff’s Objection to the Memorandum and Recommendation [Doc. 63]; and the Plaintiff’s “Notice” [Doc. 64], which the Court construes as a Response to a previous Order [Doc. 56] directing the Plaintiff to show cause why Defendant Rhonda McLain should not be dismissed from the action pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

On September 16, 2024, the above-referenced Defendants filed a Motion to Dismiss the Plaintiff’s Complaint. [Doc. 52]. Pursuant to 28 U.S.C.

§ 636(b) and the Standing Orders of Designation of this Court, the Honorable David C. Keesler, United States Magistrate Judge, was designated to consider this pending motion.

On September 24, 2024, the Magistrate Judge entered an Order directing the Plaintiff to show cause on or before October 11, 2024, why Defendant Rhonda McLain should not be dismissed from this action due to a lack of service. [Doc. 56]. The Plaintiff did not file a timely response to the Magistrate Judge's Show Cause Order.

On March 28, 2025, the Magistrate Judge entered a Memorandum and Recommendation in this case containing conclusions of law in support of a recommendation that the Motion to Dismiss be denied, and that Defendant McLain be dismissed from this action without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. [Doc. 62]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. [Id.]. The Plaintiff filed Objections to the Memorandum and Recommendation, as well as a "Notice" in which he contends that Defendant McLain should not be dismissed from this action because the Plaintiff is incarcerated and prison staff are allegedly interfering with his mail.¹ [Docs.

¹ The Objections and Notice are undated; they are post-marked April 22, 2025. The

63, 64]. The Defendants have not responded to the Plaintiff's filings, and the time to do so has expired.

After careful review of the Magistrate Judge's Memorandum and Recommendation [Doc. 62] regarding the Defendants' Motion to Dismiss, the Court finds that the proposed conclusions of law are correct and are consistent with current case law. Accordingly, the Plaintiff's Objections are overruled, and the Court accepts the Magistrate Judge's recommendation that the Motion to Dismiss be denied. As for the Plaintiff's "Notice," the Plaintiff fails to offer a plausible explanation as to why he waited nearly seven months to respond to the Magistrate Judge's Show Cause Order. His conclusory allegations that prison staff are tampering with his legal mail are insufficient to justify extending the time for service on Defendant McLain any longer. Accordingly, the Court also accepts the Magistrate Judge's recommendation that Defendant McLain be dismissed from this action without prejudice pursuant to Rule 4(m).

IT IS, THEREFORE, ORDERED that the Plaintiff's Objections [Doc. 63] are **OVERRULED**; the Magistrate Judge's Memorandum and Recommendation [Doc. 62] is **ACCEPTED**; the Defendants' Motion to


Plaintiff contends that prison staff are "attempting to sabotage [his] claims by not delivering mail on time." [Doc. 64 at 1].

Dismiss [Doc. 52] is **DENIED**; and Defendant McLain is **DISMISSED WITHOUT PREJUDICE** from this action pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that Defendants Gilliland, Kalinowski, Moody, and Morgan shall answer the Amended Complaint [Doc. 31] within **fourteen (14) days** of this Order.

IT IS SO ORDERED.

Signed: May 23, 2025



Martin Reidinger
Chief United States District Judge

